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9 Attorneys for Plaintiff
10 FACEBOOK, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
14

15 FACEBOOK, INC., a Delaware
corporation,

16 Plaintiff,

17 v.

18 JEREMI FISHER; PHILIP
19 POREMBSKI; RYAN SHIMEALL;
20 and JOHN DOES 1-25, individuals,
and CHOKO SYSTEMS; HARM,
21 INC.; iMEDIA ONLINE SERVICES
LLC; and JOHN DOES 26-50,
22 corporations,

23 Defendants.
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Case No. C 09-05842 JF

**DECLARATION OF JOSEPH P. CUTLER IN
SUPPORT OF PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER**

1 1. I am an attorney in the Seattle, Washington office of Perkins Coie, LLP. I make
2 this declaration based upon personal knowledge and am competent to testify to the facts stated
3 herein.

4 2. On or about October 21, 2008 Facebook, by and through counsel, wrote a letter to
5 Defendant Ryan Shimeall demanding that he cease and desist from sending unsolicited
6 commercial email messages ("spam") to Facebook users.

7 3. On or about October 29, 2008, Facebook, by and through counsel, wrote to
8 Defendants Jeremi Fisher and Philip Porembski demanding that they cease and desist from
9 deceptively soliciting Facebook user personal and login information and from sending spam to
10 Facebook users through the Facebook computers and network.


11 4. On or about October 30, 2008, Defendant Jeremi Fisher responded to Facebook's
12 cease and desist letter claiming, in part, that "I do not, will not nor do anything spamming or harm
13 with facebook. I have no reason to be on that site" (sic). [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 5. On or about October 29, 2008, Defendant Philip Porembski responded to
17 Facebook's cease and desist letter claiming, in part, that "I want to stress the fact that this is not
18 me sending on facebook" (sic). [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 6. On or about October 28, 2008, [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

EXECUTED at Seattle, Washington this 15th day of December, 2009.


Joseph P. Cutler